

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
v.)	CRIMINAL NO. 13-10200-GAO
)	
DZHOKHAR TSARNAEV)	

**MOTION FOR LEAVE TO FILE REPLY
TO GOVERNMENT'S OPPOSITION TO
MOTIONS TO SUPPRESS PHYSICAL EVIDENCE**

Defendant, Dzhokhar Tsarnaev, by and through counsel, respectfully request that the Court grant him leave to file a Reply to the Government's Combined Opposition to the Defendant's Motions to Suppress Physical and Digital Evidence ("Govt. Opp.") [DE 350].

As grounds for this motion, undersigned counsel state that the Government's Opposition, was 42 pages long (not including the certificate of service) and accompanied by a 339-page appendix. The opposition relies on both legal and factual arguments that require a response, including claims that Mr. Tsarnaev abandoned some of the property in question, that he lacks standing, that a third party consented to the search of his dorm room, and that the fruits of the searches are admissible under the "good faith" exception. In addition, the government sets forth in its opposition factual claims regarding defendant's standing, abandonment of property, and third party consent which are not supported by discovery provided to date. Defense counsel will be seeking additional information from the government regarding the bases for these claims before the status conference scheduled for June 18.

Defendant proposes to file his reply by June 20.

The government has indicated that it assents to the request for leave to file a reply, but opposes a filing deadline later than June 17, in order to permit the Court to hear argument on the motion during the status conference on June 18. Defendant submits that the proposed extension is reasonable, given the length of the government's opposition and the fact that the government

sought and received (with the defendant's assent) extensions of seven and 12 days, respectively, to the filing deadlines for its oppositions to the motion to suppress digital evidence and the motion to suppress physical evidence.¹ Further, defendant submits that an evidentiary hearing will be necessary to resolve, at a minimum, the standing, abandonment, and consent issues.

Respectfully submitted,

DZHOKHAR TSARNAEV
By his attorneys

/s/ Miriam Conrad

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¹ The government filed a consolidated response to the motions to suppress physical evidence. While there was some overlap in the issues, the government's arguments regarding defendant's standing to challenge the searches of the Norfolk Street apartment and dorm room, as well as its arguments regarding abandonment and third party consent – which span more than ten pages of the government's opposition – were distinct and could have been raised by the government well before June 2. By obtaining defendant's assent to consolidate the response and extend the time for filing it, the government effectively shortened the amount of time available to the defense to respond to these arguments.

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on June 13, 2014.

/s/ Miriam Conrad